

if they were removed from an establishment in or about which oppressive child labor was no longer employed but less than 30 days had then elapsed since any such employment of oppressive child labor came to an end. Once any goods have been removed from a producing establishment within the above-mentioned thirty-day period, they are barred at any time thereafter from being shipped or delivered for shipment in commerce so long as they remain “goods” for purposes of the Act.²¹ Goods are considered removed from an establishment just as soon as they are taken away from the establishment as that term has been defined.²² The statute does not require that this “removal” from the establishment be made for the purpose or in the course of a shipment or delivery for shipment in commerce. A “removal” within the meaning of the statute also takes place where the goods are removed from the establishment for some other purpose such as storage, the granting of a lien or other security interest, or further processing.

[16 FR 7008, July 20, 1951, as amended at 23 FR 6240, Aug. 14, 1958. Redesignated at 28 FR 1634, Feb. 21, 1963. Redesignated and amended at 36 FR 25156, Dec. 29, 1971; 75 FR 28458, May 20, 2010]

COVERAGE OF SECTION 12(c)

§570.112 General.

(a) Section 12(c) of the Act provides as follows:

No employer shall employ any oppressive child labor in commerce or in the production of goods for commerce or in an enterprise engaged in commerce or in the production of goods for commerce.

(b) This provision, which was added by amendments of 1949 and 1961 to the Act, broadens child labor coverage to include employment in commerce. Moreover, it establishes a direct prohibition of the employment of oppressive child labor in commerce or in the pro-

duction of goods for commerce. The legislative history pertaining to this provision leads to the conclusion that Congress intend its application to be generally consistent with that of wage and hours coverage provisions. The application of the provision depends on the existence of two necessary elements: (1) The employment of “oppressive child labor”²⁴ by some employer and (2) the employment of such oppressive child labor in activities or enterprises which are in commerce or in the production of goods for commerce within the meaning of the Act.

[36 FR 25156, Dec. 29, 1971]

§570.113 Employment “in commerce or in the production of goods for commerce”.

(a) The term “employ” is broadly defined in section 3(g) of the Act to include “to suffer or permit to work.” The Act expressly provides that the term “employer” includes “any person acting directly or indirectly in the interest of an employer in relation to an employee”. The nature of an employer-employee relationship is ordinarily to be determined not solely on the basis of the contractual relationship between the parties but also in the light of all the facts and circumstances. Moreover, the terms “employer” and “employ” as used in the Act are broader than the common-law concept of employment and must be interpreted broadly in the light of the mischief to be corrected. Thus, neither the technical relationship between the parties nor the fact that the minor is unsupervised or receives no compensation is controlling in determining whether an employer-employee relationship exists for purposes of section 12(c) of the Act. However, these are matters which should be considered along with all other facts and circumstances surrounding the relationship of the parties in arriving at such determination. The words “suffer or permit to work” include those who suffer by a failure to hinder and those who permit by acquiescence in addition to those who employ by oral or written

²¹ However, section 12(a) contains a provision relieving innocent purchasers from liability thereunder provided certain conditions are met. For a discussion of this provision, see §570.141.

²² For a discussion of the meaning of “establishment,” see §570.109.

²³ [Reserved]

²⁴ “Oppressive child labor” is discussed in §§570.117 to 570.121, inclusive.

²⁵ [Reserved]